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BEFORE THE FEDERAL ELECTION COMMISSION

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CEA In the Matter of)
MUR 6243)
FRIENDS OF NANCY NAVARRO)
AND MARIA FIGUERO, IN HER)
OFFICIAL CAPACITY AS TREASURER)
NANCY NAVARRO)
INFOMONAGAS.COM)
ANFFER ASTUDILLO)

CASE CLOSURE UNDER
THE ENFORCEMENT
PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters, compared to other higher-rated matters on the Enforcement docket, warrants the exercise of its prosecutorial discretion to dismiss these cases. The Office of General Counsel scored MUR 6243 as a low-rated matter.

In this matter, the complaint, filed by Eric Hensal, alleges that Friends of Nancy Navarro and Maria Figueredo, in her official capacity as treasurer (collectively "the Committee") and Nancy Navarro, solicited and received a prohibited in-kind contribution from a foreign business in connection with a local election in violation of 2 U.S.C. § 441e(a)(2) and that Infomonagas.com, a Venezuelan business owned by Ms. Navarro's nephew, Anferr Astudillo, made a prohibited in-kind contribution to the Committee in

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1 violation of 2 U.S.C. § 441e(a)(1)(A).¹ According to the complaint, Ms. Navarro was a
2 candidate in 2008 for the special election for the District 4 County Council seat in
3 Montgomery County, Maryland. Ms. Navarro and the Committee solicited
4 Infomonagas.com, a Venezuelan business, to create a Web site for her campaign, and the
5 value of the services received was \$1,000. On its campaign finance reports filed with the
6 Maryland State Board of Elections, the Committee disclosed the receipt of an in-kind
7 contribution in the amount of \$1,000 from "Infomonagas" located in Maturin, Managas, for
8 "Web page."

9 The response filed by Ms. Navarro acknowledges that she utilized the services of a
10 Web design firm, Infomonagas, located in Managas, Venezuela to create her campaign
11 Web site: www.nancynavarro.org. According to the response, Infomonagas is owned by
12 her nephew, Mr. Astudillo, who is located in Venezuela, and he did not charge for the time
13 spent in setting up the campaign Web site. The response asserts that the extent of the
14 services provided were simply to create the Web site, but not any of the content on the site.

¹ Respondent, Ms. Navarro, alleges in her response to the complaint that the complainant violated 2 U.S.C. § 437g(a)(12)(A) by discussing the contents of the complaint and providing a copy to the news media after he filed it with the Federal Election Commission. The response attaches a copy of a news article from www.gazette.net entitled "Complaint alleges Navarro violated campaign finance law," dated January 13, 2010. The news article discusses the allegations raised in the complaint, the notification Mr. Hensal received from the Commission acknowledging receipt of his complaint, and what appear to be quotes from the complainant, as well as from respondent's lawyer, regarding the allegations. The Federal Election Campaign Act of 1971, as amended ("the Act") prohibits any person from making public any notification or investigation made under 2 U.S.C. § 437g without the written consent of the person receiving such notification or the person with respect to whom such investigation is made. See 2 U.S.C. § 437g(a)(12)(A). The Commission has interpreted the confidentiality provision as providing that a complainant, who communicates with the press regarding the complaint filed with the Commission, does not violate the confidentiality provisions of the Act, provided such person did not "disclose any information relating to any notification of findings by the Commission or any action taken by the Commission in an investigation until the case is closed or the respondent waives the right to confidentiality. Disclosure of these phases of the enforcement process is prohibited by 2 U.S.C. § 437g(a)(12) and 11 C.F.R. § 111.21." See Advisory Opinion 1995-01 (Fulani/Newman), citing Advisory Opinion 1994-32 (Gasink). Although the Commission can use its supervisory powers to investigate an alleged violation of the Act of which it becomes aware, in this instance, because there appears to be no violation of 2 U.S.C. § 437g(a)(12) or 11 C.F.R. § 111.21(a), we do not recommend any findings or an investigation into the alleged breach of confidentiality.

1 The response further provides that the work performed by Mr. Astudillo was as a volunteer
2 and without charge to the Committee and, therefore, the value of the work performed was
3 not a contribution under the "volunteer services exemption" pursuant to 11 C.F.R. § 100.74.
4 The Committee, Infomonagas.com, and Mr. Astudillo did not file separate responses.

5 It is unlawful for a foreign national, directly or indirectly, to make a contribution
6 or donation of money or other thing of value, or make an expenditure in connection with
7 a Federal, State, or local election. See 2 U.S.C. § 441e(a)(1). It is also unlawful for a
8 person to solicit, accept, or receive a contribution or donation from a foreign national. See
9 U.S.C. § 441e(a)(2). A "foreign national" is an individual who is not a citizen of the United
10 States or a national of the United States and who is not lawfully admitted for permanent
11 residence. 2 U.S.C. § 441e(b)(2). According to the statute, the term "foreign national" also
12 means a "foreign principal," which definition includes "a partnership, association,
13 corporation, organization, or other combination of persons organized under the laws of or
14 having its principal place of business in a foreign country." See 2 U.S.C. § 441e(b)(1) and
15 22 U.S.C. § 611(b)(3). The term "individual" has been interpreted by the Commission to
16 include foreign nationals. See Explanation and Justification for Contribution Limitations
17 and Prohibitions, 67 Fed. 18 Reg. 69946 (Nov. 19, 2002). The term "contribution" does not
18 include the value of services provided without compensation by any individual who
19 volunteers on behalf of a candidate or political committee. See 2 U.S.C. § 431(8)(B)(i) and
20 11 C.F.R. § 100.74 (the so-called "volunteer services exemption"); see also, e.g., Advisory
21 Opinions 2004-26 (Weller) and 2007-22 (Hurysz) (campaign related activities performed
22 by foreign nationals in their individual capacities would not constitute prohibited
23 contributions); and Advisory Opinion 1984-43 (Brunswick) (donation of corporate officer's

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1 volunteer of his own personal services and time to appear in a campaign advertisement not
2 considered a contribution).

3 It is not clear from the complaint and response whether the services were provided by
4 Infomanagas.com, a foreign principal, or by Mr. Astudillo individually, a foreign national.

5 The complaint alleges that the Committee accepted the in-kind contribution from
6 Infomonagas, a Venezuelan business, and alternatively alleges that the contribution came from
7 Mr. Astudillo. The response acknowledges that the Committee utilized the services of the web
8 design firm, Infomonagas, in creating the Web site, but claims that the work was actually
9 performed by its owner, Mr. Astudillo, as a volunteer. A review of the Committee's
10 Montgomery Special 2008 Post-General Report, filed on June 2, 2008 with the Maryland State
11 Board of Elections, shows that the Committee received an in-kind contribution, in the form of
12 "web page," valued at \$1,000 from "Infomonagas," located in Maturin, Managas on April 28,
13 2008. See

14 [http://www.mdelections.org/campaignfinance/advancedsearch/sumctprocess.php?fsk=A00](http://www.mdelections.org/campaignfinance/advancedsearch/sumctprocess.php?fsk=A00000481920080024&acctno=A4819&coln=17)
15 [000481920080024&acctno=A4819&coln=17](http://www.mdelections.org/campaignfinance/advancedsearch/sumctprocess.php?fsk=A00000481920080024&acctno=A4819&coln=17) (accessed March 5, 2009).

16 Although we cannot ascertain through the information provided by the parties who
17 provided the web services, and specifically the extent to which Ms. Navarro and the
18 Committee utilized the services of Infomonagas, a foreign principal, in connection with a
19 local election, it nonetheless appears that any such use of services was minimal.

20 Therefore, in furtherance of the Commission's priorities and resources, relative to other
21 matters pending on the Enforcement docket, the Office of General Counsel believes that
22 the Commission should exercise its prosecutorial discretion and dismiss the matter. See
23 *Heckler v. Chaney*, 470 U.S. 821 (1985).


RECOMMENDATIONS

The Office of General Counsel recommends that the Commission dismiss MUR 6243, close the file, and approve the appropriate letters.

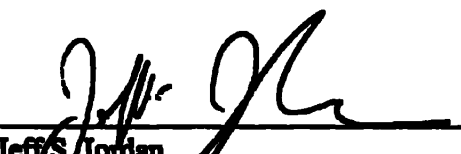
Thomasenia P. Duncan
General Counsel

3/11/10
Date

BY:



Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration



Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration



Christine C. Gallagher
Attorney

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